

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CARRIE FAUSEL,

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET  
COMPANY, LLC.,

Defendant.

-----X

Index No. 08 CV 03424


ECF CASE

**CERTIFICATION**  
**PURSUANT TO PART 130**

The accompanying papers are served/filed/submitted pursuant to Section 130-1.1-a:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Answer to Complaint                                | <input checked="" type="checkbox"/> Jury Demand                                 |
| <input checked="" type="checkbox"/> Defendant's First Demand<br>For Interrogatories    | <input checked="" type="checkbox"/> Demand for Collateral<br>Source Information |
| <input checked="" type="checkbox"/> Demand for Expert<br>Witness Information           | <input checked="" type="checkbox"/> Notice Declining Service<br>Via Facsimile   |
| <input checked="" type="checkbox"/> Notice To Take Deposition<br>Upon Oral Examination | <input checked="" type="checkbox"/> Notice for Discovery<br>and Inspection      |
| <input checked="" type="checkbox"/> Demand for Medicals                                |   |

Dated: Albertson, New York  
July 21, 2008

By:   
ERIN D. ROACH, ESQ.  
AHMUTY, DEMERS & McMANUS, ESQS.  
Attorneys for Defendant  
**THE STOP & SHOP SUPERMARKET  
COMPANY LLC i/s/h/a THE STOP & SHOP  
SUPERMARKET COMPANY, LLC.**  
200 I.U. Willets Road  
Albertson, New York 11507  
Tel: (516) 294-5433  
Our File No.: SAS 0795N8 EDR

TO:

BAILLY & McMILLAN, LLP  
Attorneys for the Plaintiff  
**CARRIE FAUSEL**  
244 Westchester Avenue  
White Plains, New York 10604-2919  
(914) 684-9100

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CARRIE FAUSEL,

Plaintiff,

Index No.: 08 CV 03424

ECF CASE

**ANSWER TO COMPLAINT**

-against-

THE STOP & SHOP SUPERMARKET  
COMPANY, LLC.,

Defendant.

-----X

The defendant, THE STOP & SHOP SUPERMARKET COMPANY LLC i/s/h/a THE STOP & SHOP SUPERMARKET COMPANY, LLC., by its attorneys, AHMUTY, DEMERS & McMANUS, ESQS., as and for its Answer to the plaintiff's Complaint, alleges upon information and belief:

**PARTIES and JURISDICTION**

1. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "1" of the Complaint.
2. Denies upon information and belief each and every allegation contained in paragraph designated "2" of the Complaint.
3. Denies upon information and belief each and every allegation contained in paragraph designated "3" of the Complaint.
4. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "4" of the Complaint.
5. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "5" of the Complaint.

**AS AND FOR AN ANSWER TO THE FIRST CLAIM FOR RELIEF**  
**ON BEHALF OF PLAINTIFF AGAINST THE DEFENDANT**

6. Denies upon information and belief each and every allegation contained in paragraph designated "6" of the Complaint and respectfully refers all questions of law to this Honorable Court.

7. Denies upon information and belief each and every allegation contained in paragraph designated "7" of the Complaint and respectfully refers all questions of law to this Honorable Court.

8. Denies upon information and belief each and every allegation contained in paragraph designated "8" of the Complaint and respectfully refers all questions of law to this Honorable Court.

9. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "9" of the Complaint.

10. Denies upon information and belief each and every allegation contained in paragraph designated "10" of the Complaint and respectfully refers all questions of law to this Honorable Court.

11. Denies upon information and belief each and every allegation contained in paragraph designated "11" of the Complaint and respectfully refers all questions of law to this Honorable Court.

12. Denies upon information and belief each and every allegation contained in paragraph designated "12" of the Complaint and respectfully refers all questions of law to this Honorable Court.

13. Denies upon information and belief each and every allegation contained in paragraph designated "13" of the Complaint and respectfully refers all questions of law to this Honorable Court.

14. Denies upon information and belief each and every allegation contained in paragraph designated "14" of the Complaint and respectfully refers all questions of law to this Honorable Court.

15. Denies upon information and belief each and every allegation contained in paragraph designated "15" of the Complaint and respectfully refers all questions of law to this Honorable Court.

16. Denies upon information and belief each and every allegation contained in paragraphs designated "16" of the Complaint and respectfully refers all questions of law to this Honorable Court and otherwise denies having knowledge or information sufficient to form a belief as to the plaintiff's alleged damages.

17. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "17" of the Complaint.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**AGAINST THE DEFENDANT**

18. Defendants, THE STOP & SHOP SUPERMARKET COMPANY LLC, i/s/h/a THE STOP & SHOP SUPERMARKET COMPANY, LLC., repeats, reiterates and realleges each and every denial in answer to paragraphs "1" through "17" as if more specifically set forth in answer to paragraph designated "18" of the Complaint and each and every part thereof.

19. Denies upon information and belief each and every allegation contained in paragraph designated "19" of the Complaint and respectfully refers all questions of law to this Honorable Court.

20. Denies upon information and belief each and every allegation contained in paragraph designated "20" of the Complaint and respectfully refers all questions of law to this Honorable Court.

21. Denies upon information and belief each and every allegation contained in paragraph designated "21" of the Complaint and respectfully refers all questions of law to this Honorable Court.

22. Denies upon information and belief each and every allegation contained in paragraphs designated "22" of the Complaint and respectfully refers all questions of law to this Honorable Court and otherwise denies having knowledge or information sufficient to form a belief as to the plaintiff's alleged damages.

23. Denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph designated "23" of the Complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

24. That the causes of action herein are barred by the applicable Statutes of Limitations.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

25. That there is no personal jurisdiction over the person of the answering defendant, there having been no proper service of process.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

26. Upon information and belief, plaintiff's economic loss, if any, specified in CPLR §4545 was or will be replaced or indemnified, in whole or in part, from collateral sources and the defendants are entitled to have the Court consider same in determining such special damages as provided in CPLR §4545.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

27. The answering defendant, pursuant to CPLR §1412, alleges that if the plaintiffs sustained any injuries or damages at the time and place alleged in plaintiff's Complaint, such

injuries or damages were the result of the culpable conduct of the plaintiff, Carrie Fausel, because of her negligence or assumption of risk. Should it be found, however, that the answering defendant is liable to the plaintiff herein, any liability being specifically denied, then the answering defendant demands that any damages that are found be apportioned between and/or among the respective parties according to the degree of responsibility each is found to have had in the occurrence in proportion to the entire measure of responsibility for the occurrence.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

28. The answering defendant's liability, if any, is limited and governed by the provisions set forth in Article 16 of the CPLR.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

29. Any injuries or damages claimed were caused, in whole or in part, by the negligence or other culpable conduct of third parties over whom the answering defendant had no control or right to exercise such control.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

30. Plaintiff failed to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged in plaintiff's Complaint.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

31. The plaintiff, Carrie Fausel, assumed all risks attendant with her conduct and failed to act as a reasonable and prudent person with regard to her own safety and well being.


**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

32. The plaintiff has failed to join necessary and indispensable parties in some or all of the causes of action who would be responsible in whole or in part for the damages alleged.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

33. In the event that any person or entity liable or claimed to be liable for the injuries alleged in this action has been given or may hereafter be given a release or covenant not to sue, the answering defendant is or will be entitled to protection under General Obligations Law §15-108 and the corresponding reduction of any damages which may be determined to be due against the answering defendant.

Dated: Albertson, New York  
July 21, 2008

By:   
ERIN D. ROACH, ESQ.  
AHMUTY, DEMERS & McMANUS, ESQS.  
Attorneys for Defendant  
**THE STOP & SHOP SUPERMARKET  
COMPANY LLC i/s/h/a THE STOP & SHOP  
SUPERMARKET COMPANY, LLC.**  
200 I.U. Willets Road  
Albertson, New York 11507  
Tel: (516) 294-5433  
Our File No.: SAS 0795N8 EDR

TO:

BAILLY & McMILLAN, LLP  
Attorneys for the Plaintiff  
**CARRIE FAUSEL**  
244 Westchester Avenue  
White Plains, New York 10604-2919  
(914)684-9100



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARRIE FAUSEL,

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET  
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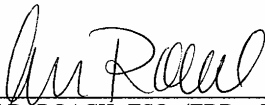
**STATEMENT PURSUANT  
TO RULE 7.1**

**JURY TRIAL DEMANDED**

Pursuant to Rule 7.1 of the Local Rules of the United States District Court, Southern District of New York and to enable judges and magistrates of the Court to evaluate possible disqualification of recusal, the undersigned counsel for Defendant, THE STOP & SHOP COMPANY LLC i/s/h/a THE STOP & SHOP SUPERMARKET COMPANY, LLC., governmental party, certifies that the following are parent corporations or are publicly held corporations that own ten percent of its stock:

**AHOLD U.S.A., INC.**

Dated: Albertson, New York  
July 21, 2008

By:   
ERIN D. ROACH, ESQ. (EDR - 8244)  
AHMUTY, DEMERS & McMANUS, ESQS.  
Attorneys for Defendant  
**THE STOP & SHOP SUPERMARKET  
COMPANY LLC i/s/h/a THE STOP & SHOP  
SUPERMARKET COMPANY, LLC.**  
200 I.U. Willets Road  
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Our File No.: SAS 0795N8 EDR

TO:

BAILLY & McMILLAN, LLP  
Attorneys for the Plaintiff  
**CARRIE FAUSEL**  
244 Westchester Avenue  
White Plains, New York 10604-2919  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CARRIE FAUSEL,

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-against-

THE STOP & SHOP SUPERMARKET  
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Defendant.

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**JURY DEMAND**

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**PLEASE TAKE NOTICE**, that the undersigned demands a trial by a jury composed of  
6 persons in the above entitled action.

Dated: Albertson, New York  
July 21, 2008

By:   
ERIN D. ROACH, ESQ. (EDR - 8244)  
AHMUTY, DEMERS & McMANUS, ESQS.  
Attorneys for Defendant  
**THE STOP & SHOP SUPERMARKET  
COMPANY LLC i/s/h/a THE STOP & SHOP  
SUPERMARKET COMPANY, LLC.**  
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TO:

BAILLY & McMILLAN, LLP  
Attorneys for the Plaintiff  
**CARRIE FAUSEL**  
244 Westchester Avenue  
White Plains, New York 10604-2919  
(914)684-9100